IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
File No.: 1:07-CV-231-LHT-DLH

C. BURGESS, Plaintiff, v. EFORCE MEDIA, INC., IWIZARD HOLDING, INC., ADKNOWLEDGE, INC., BASEBALL EXPRESS, INC., ALLEN-EDMONDS SHOE GROUP, INC., TRUSCO MANUFACTURING COMPANY, PRICEGRABBER.COM, INC. SHOPZILLA, INC., DAZADI, INC., SIX THREE ZERO ENTERPRISES, LLC, Defendants.	)	**RESPONSE BY ALLEN EDMONDS SHOE CORPORATION IN OPPOSITION TO PLAINTIFF'S MOTION FOR EXTENSION OF TIME**

Defendant Allen Edmonds Shoe Corporation ("Allen Edmonds"), through counsel, objects to Plaintiff's Motion for Extension of Time, dated August 6, 2007, which was filed today, August 9, 2007.

1. In support of his motion, Plaintiff alleges that he has not received any pleadings whatsoever from Allen Edmonds. Plaintiff also alleges that he contacted all counsel by electronic mail requesting additional copies but received no response. Plaintiff's allegations are incorrect. In addition, Plaintiff has had ample time to form a response to Allen Edmonds' motion to dismiss. Therefore, this Court should deny Plaintiff's motion for extension of time beyond the Court-ordered due date.

2. On July 23, 2007, Allen Edmonds filed its Motion to Dismiss Plaintiff's Complaint and Memorandum in Support of its Motion to Dismiss. As reflected in the Certificates of Service attached thereto, Allen Edmonds served copies of the filings

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electronically via the ECF system. In addition, Allen Edmonds served Plaintiff by U.S. Mail. Allen Edmonds sent Plaintiff's copies to his address of record:

P.O. Box 6355
Hendersonville, NC 28793

3. On July 26, 2007, the Court ordered Plaintiff to respond to Allen Edmonds' motion to dismiss on or before August 9, 2007.

4. On August 8, 2007, at approximately 4:00 p.m., Plaintiff sent an e-mail to the undersigned requesting copies of Allen Edmonds' pleadings. In the e-mail, Plaintiff alleged that he had requested the pleadings three times previously. Plaintiff also implied that he lacked the opportunity to review and respond to Allen Edmonds' motion to dismiss.

5. Despite Plaintiffs' statement to the contrary, the August 8 e-mail was the first communication received by the undersigned where Plaintiff requested copies of any pleadings. The undersigned performed a search of his e-mail and found no prior communications received from Plaintiff regarding the motion to dismiss. If Plaintiff sent prior communications requesting copies of the filing, the undersigned did not receive them. Accordingly, Plaintiff's allegation that he "contacted all counsel by electronic mail and asked them to provide him with additional copies" is inaccurate.

6. The following morning, August 9, 2007, the undersigned provided copies of the Motion to Dismiss and Memorandum in Support via .pdf attachments to e-mail. In the e-mail, the undersigned disagreed that Plaintiff had lacked the opportunity to review the attached documents. In addition, the undersigned requested that Plaintiff confirm that he received the attached Motion to Dismiss and Memorandum in Support. Plaintiff responded that he would respond to the Motion to Dismiss. Allen Edmonds has attached a true and accurate copy of the chain of e-mails reflecting the aforementioned facts as Exhibit A.

WHEREFORE, because 1) the facts supporting Plaintiff's motion are inaccurate; and 2) Plaintiff has had ample opportunity to receive, obtain and review Allen Edmond's Motion to Dismiss prior to this date, Allen Edmonds respectfully requests that the Court deny Plaintiff's Motion for Extension of Time.

This the 9th day of August, 2007.

/s/Brian S. Heslin
Brian S. Heslin, NC State Bar No. 33432
MOORE & VAN ALLEN, PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28202-4003
Telephone: (704) 331-1000
Facsimile: (704) 378-1963
brianheslin@mvalaw.com

ATTORNEYS FOR DEFENDANT
ALLEN EDMONDS SHOE
CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2007, **Response by Allen Edmonds Shoe Corporation in Opposition to Plaintiff's Motion for Extension of Time** was filed electronically with the Clerk of Court through ECF, and by serving a copy by depositing a copy of the same in the US Mail, first class postage pre-paid, to the following attorneys for said parties:

C. Burgess
P.O. Box 6355
Hendersonville, NC 28793
(Plaintiff, Pro Se)
nossell1234@mchsi.com

Ms. Jacqueline Grant
ROBERTS & STEVENS, PA
P.O. Box 7647
Asheville, NC 28802
(Represents iWizard Holding, Inc.)
jgrant@roberts-stevens.com

Mr. Keith H. Johnson
POYNER SPRUILL LLP
3600 Glenwood Avenue
Raleigh, NC 27612
(Represents Baseball Express and Shopzilla, Inc.)
kjohnson@poynerspruill.com

This the 9th day of August, 2007.

/s/Brian S. Heslin